

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:17-cr-0192-SEB-DML
)	
KYLE L. WILLIAMS,)	- 01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On April 19, 2018, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on March 8, 2018 [Dkt. 24]. [Dkt. 33.] Defendant Williams appeared in person and with his FCD counsel Michael Donahoe. The government appeared by Kendra Klump, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Shelly McKee.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Williams of his rights and ensured he had a copy of the Petition. Defendant Williams orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Williams admitted violation nos. 1 and 2 as set forth in the Petition. [Dkt. 24.]
3. The allegations to which Defendant Williams admitted, as fully set forth in the Petition, are:

**Violation
Number**

Nature of Noncompliance

1 “You shall not use or possess alcohol.”

On February 4, 11, 12, 14, 15, and 19, 2018, Mr. Williams provided positive breath tests for alcohol as reported by the Soberlink monitoring program. Mr. Williams admitted consuming alcohol on or about these dates.

As previously reported to the Court, on January 26, 29, and February 4, 2018, Mr. Williams provided positive breath tests for alcohol as reported by the Soberlink monitoring program. Mr. Williams admitted consuming alcohol on or about these dates.

2 “You shall be monitored by mobile alcohol monitoring, such as Soberlink, for a period of 180 days, to commence as soon as practical, and shall abide by all the technology requirements.”

On February 24, 2018, at 10:43 p.m., and 10:51 p.m., February 25, 2018, at 11:04 a.m., and 10:54 p.m., February 26, 2018, at 7:14 a.m., 5:00 p.m., and 10:34 p.m., February 27, 2018, at 6:41 p.m., and February 28, 2018, at 5:23 p.m., someone other than Mr. Williams blew into the Soberlink monitoring device as evidence by a picture of the individual.

Beginning February 6, through March 6, 2018, (29 days), Mr. Williams failed to provide the required four daily breath tests as scheduled on each of those days.

As previously reported to the Court beginning January 22, 2018, through February 5, 2018, Mr. Williams failed to comply with all testing requirements of the Soberlink monitoring program. With the exception of 5 days, Mr. Williams missed at least one test per day, thus failing to provide four daily breath tests as scheduled.

4. The Court found that:

- (a) The highest grade of violation is a Grade C violation.
- (b) Defendant’s criminal history category is V.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 7 to 13 months’ imprisonment.

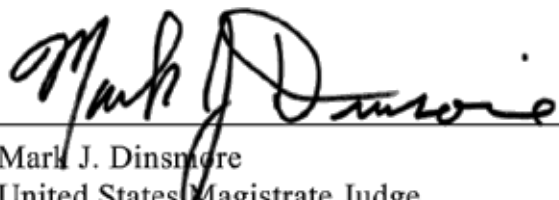
5. The parties jointly recommended a modification of Defendant Williams's current conditions of supervised release to include removal of the Soberlink monitoring requirement, attending Alcoholics Anonymous meetings, and completion of 10 hours of community service per month for the next 6 months, beginning in May, 2018.

The Magistrate Judge, having considered the factors set forth in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions set forth in the Petition, and recommends that Defendant's supervised release be modified as follows:

1. Condition 20--"You shall be monitored by a mobile alcohol monitoring, such as Soberlink, for a period of 180 months, to commence as soon as practical, and shall abide by all the technology requirements"--set forth in the Report and Recommendation [Dkt. 16], Order Adopting Report and Recommendation [Dkt. 17], and Judgment for Revocation of Supervised Release [Dkt. 18] shall be removed;
2. Defendant shall attend three (3) Alcoholics Anonymous ("AA") meetings per week and provide documentation of attendance to his probation officer;
3. Defendant is to perform six (6) months of community service starting May, 2018. Defendant is to complete ten (10) hours of community service per month and provide monthly verification of completion of the required hours of community service each month to his probation officer; and
4. All other conditions of supervised release will remain in effect.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 23 APR 2018


Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

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